

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK FREGIA,

Plaintiff,

v.

P.A. MIRANDA, et al.,

Defendants.

No. 2:19-cv-2196 JAM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel. Plaintiff filed a motion for extension of time to file and serve an opposition to the October 9, 2020 motion to dismiss filed by defendants Miranda and Ridge. Good cause appearing, plaintiff's request is granted.

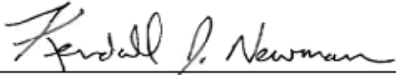
In addition, plaintiff objects that the motion attached exhibits, therefore the motion should be construed as a request for summary judgment under Rule 56(f) of the Federal Rules of Civil Procedure. (ECF No. 39 at 2-3.) However, the attachment to the motion is a request for judicial notice, which is authorized under Rule 201(b) of the Federal Rules of Evidence. Id. Moving defendants ask the court to take judicial notice of filings in a case previously filed by plaintiff. Fregia v. St. Clair, No. 1:16-cv-1866 (E.D. Cal.). Such request is properly made. A court may take judicial notice of court records. See, e.g., Bennett v. Medtronic, Inc., 285 F.3d 801, 803 n.2 (9th Cir. 2002) (“[W]e may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue”)

(internal quotation omitted). A court is allowed to consider documents incorporated by reference in the complaint or matters of judicial notice without converting the motion to dismiss into a motion for summary judgment. United States v. Ritchie, 342 F.3d 903, 907-08 (9th Cir. 2003). The request for judicial notice will be considered and decided once the motion to dismiss is fully briefed.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for an extension of time (ECF No. 39) is granted; and
2. Plaintiff is granted sixty days from the date of this order in which to file and serve his opposition.

Dated: November 4, 2020

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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